



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – February 22, 2012
Environment Committee

Testimony Submitted by Commissioner Daniel Esty
Presented By Deputy Commissioner Macky McCleary

Raised Senate Bill No. 86 - An Act Concerning the Structures and Dredging Permit Process

Thank you for the opportunity to present testimony regarding Raised Senate Bill No. 86 – An Act Concerning the Structures and Dredging Permit Process. The Department of Energy and Environmental Protection (DEEP) welcomes the opportunity to offer the following testimony.

The proposed bill would allow applicants for CGS §22a-361 coastal structures and dredging permits to obtain a full contested case hearing upon request. Currently, applicants or other interested parties can only obtain a hearing on a structures and dredging application under very specific circumstances.

We appreciate the Committee's interest in providing applicants with the opportunity for a hearing and simply wish to make you aware that such a change would have implications for permitting fairness and efficiency. Permit applicants are not the only persons with an interest in coastal regulatory proceedings, and the committee should also consider fairness to neighbors, municipalities, and other stakeholders that may be concerned with 22a-361 permit applications. If applicants can obtain a full contested case hearing upon request, other interested parties also should have the opportunity to petition for hearings.

Contested case hearings are often lengthy and time-consuming for both Department staff and the applicant. Enactment of this bill will lengthen processing times and reduce permitting efficiency not just for those applications that go to hearing, but for other coastal permit applications as staff resources are shifted from the permitting process to the hearing process. We estimate that each hearing requires 480 to 640 hours of staff time for a hearing officer and program staff. Our rough calculation suggests that the likely six to ten additional hearings per year engendered by this bill and by Senate Bill No. 87 would necessitate between 1.5 and three additional FTEs between the Department's Office of Adjudications, Office of Long Island Sound Programs (OLISP), and Inland Water Resources Division.

With regard to providing applicants a right to appeal, it is important to note that applicants who disagree with OLISP's determination on a permit are not without recourse. Applicants can always request a declaratory ruling from the Commissioner, which can then be appealed to Superior Court. Several applicants have already utilized this option.

Thank you for the opportunity to present DEEP's views on this proposal. If you should require any additional information, please contact the Department's legislative liaison, Robert LaFrance, at (860) 424-3401 or Robert.LaFrance@ct.gov .